

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed December 11, 2003. Claims 1-50 are pending in the Application. The Examiner rejected Claims 1-50. Applicants have amended Claims 17, 21, and 22 to correct antecedent basis issues identified by the Examiner. Applicants submit that no new matter has been added with these amendments. As described below, Applicants believe all claims to be allowable over the cited references. Therefore, Applicants respectfully request reconsideration and full allowance of all pending claims.

Section 112 Rejections

The Examiner rejected Claims 6, 17, 21, 22, and 31 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have amended Claims 17, 21, and 22 to address the issues identified by the Examiner. Regarding Claims 21 and 22, “caller labeling information” is a new feature recited in these claims. Thus, Applicants have not preceded “caller labeling information” in either claim with an identifier such as “the.”

Regarding Claims 6 and 31, which recite “non-broadcast, switched linear video or audio sources,” Applicants respectfully submit that one of ordinary skill in the art would understand the meaning of such terminology. For the convenience of the Examiner and to expedite the prosecution of this patent application, Applicants provide the following example definitions that one of ordinary skill in the art might find applicable to “non-broadcast, switched linear video or audio sources.” As a first example, the Online ITV Dictionary provided at www.itvdictionary.com defines linear video as “the standard non-VOD and non-PVR television service of today where the viewer needs to watch a scheduled TV program at the particular time it’s offered.” As a second example, the webmaster dictionary provided at www.seehits.com defines linear video as “a video on tape that is viewed or edited in a linear sequence.” The webmaster dictionary distinguishes linear video from CD-ROMs and LaserDiscs that display nonlinear video, which allow a user to jump from frame to frame or clip to clip in any order. Accordingly, Applicants submit that one of ordinary skill in the art would understand the meaning of “non-broadcast, switched linear video or audio sources,” as recited in Claims 6 and 31.

For at least these reasons, Applicants submit that Claims 6, 17, 21, 22, and 31 are in accordance with 35 U.S.C. § 112, second paragraph. Applicants respectfully request that this rejection now be withdrawn and that Claims 6, 17, 21, 22, and 31 be allowed.

Section 102 Rejections

The Examiner rejected Claims 1-4, 7, 9-11, 25, 27-29, 33, 35-37, and 49 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,828,666 issued to Focsaneanu et al. ("*Focsaneanu*"). For the following reasons, Applicants respectfully request reconsideration and allowance Claims 1-4, 7, 9-11, 25, 27-29, 33, 35-37, and 49.

Independent Claim 1 of the present application recites:

A method for providing integrated voice, video, and data content in an integrated service offering to one or more customer premises, comprising:

- receiving television programming from a programming source;
- receiving data from a data network;
- receiving telephone communications from a telephone network;
- placing the television programming, data, and telephone communications in a common format for integrated communication over a single network infrastructure using a common communication protocol;
- and

- communicating the integrated television programming, data, and telephone communications in the common format over the single network infrastructure using the common communication protocol to one or more customer premises to provide the integrated service offering.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); MPEP § 2131. In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); MPEP § 2131 (*emphasis added*). Whether considered alone or in combination with any other cited references, *Focsaneanu* does not disclose, either expressly or inherently, each and every element of the claims.

For example, *Focsaneanu* does not disclose, teach, or suggest "placing the television programming, data, and telephone communications in a common format for integrated communication over a single network infrastructure using a common communication protocol," as recited in independent Claim 1. *Focsaneanu* merely discloses an access module that interfaces with a variety of data networks to deliver/receive data services traffic. (Column 10, lines 62-64). The access module extracts information content from traffic for services at the local access between a CPE and the communications network. (Column 4, lines 46-48). The access module then determines the appropriate routing according to the extracted information content and routes the extracted information content to appropriate service providers and/or network resources. (Column 4, lines 48-53). Thus, the access module operates to determine the appropriate routing of information based at least in part upon the information content.

More specifically, the user of the *Focsaneanu* system subscribes to two types of services, a data service supported by a 28.8 KB/s modem and a voice (POTS) service. (Column 9, lines 56-58). The line interface is remotely programmable by the network service provider with two distinct personalities, one includes a data service 28.8 KB/s modem emulation and the other a POTS line interface. (Column 9, lines 58-62). The access module has a "default state" and a "non-default state." In the default state, the network is normally receiving and expecting packet data. (Column 9, lines 39-41). The access module can alter the state of the access at any instant that a service request is received. (Column 9, lines 44-46). For example, when a customer requests POTS service, the data connection is dropped. (Column 10, lines 6-8). Thus, there is no disclosure in *Focsaneanu* of the *integrated* communication over a *single network infrastructure* recited in Applicants' Claim 1.

Even where the access module operates in a dual-mode operation, the *Focsaneanu* system uses different channels for transmission and reception. Specifically, *Focsaneanu* discloses that the access module directs voice traffic to a channelized bus, multiplexes it on a transport facility, and then interfaces with a local switch at the edge of PSTN. (Column 10, lines 42-44). The access module also directs data traffic to a non-channelized bus 500 running a LAN-type protocol, to which bus [500] outside connection can be provided through

an interface device such as a bridge. (Column 10, lines 49-53). Thus, access module operates as an interface for the mediation of services on a service by service basis (Column 10, lines 57-60) and is limited to a system for extracting a sample of data traffic to determine the type of traffic being transmitted and routing the traffic appropriately. Accordingly, Applicants respectfully submit that *Focsaneanu* does not disclose, teach, or suggest "placing the television programming, data, and telephone communications in a common format for integrated communication over a single network infrastructure using a common communication protocol," as recited in Claim 1.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 1.

Independent Claim 27 recites features and operations that are similar, though not identical, to those discussed above with regard to Claim 1. For example, Claim 27 recites "a video encoder operable to convert the television programming into a common format for communication over a single network infrastructure using a common communication protocol," "a gateway operable to convert the telephone communications into the common format for communication over the single network infrastructure using the common communication protocol," "a router . . . operable to . . . communicate the converted television programming, the converted telephone communications, and the data in the common format over the single network infrastructure using the common communication protocol to one or more customer premises to provide the integrated service offering." Accordingly, for reasons similar to those discussed above with regard to Claim 1, Applicants respectfully submit that *Focsaneanu* does not disclose, teach, or suggest each and every element recited in Applicants' independent Claim 27.

Claims 2-4, 7, 9-11, and 25 depend directly or indirectly upon Claim 1, which Applicants have shown above to be allowable. Claims 28, 29, 33, and 35-37 depend directly or indirectly upon Claim 27, which Applicants have shown above to be allowable. Thus, for the same reasons that independent Claims 1 and 27 are allowable, these dependent claims are also allowable. Additionally, dependent Claims 2-4, 7, 9-11, 25, 28, 29, 33, and 35-37 recite limitations that are not disclosed, taught, or suggested by the prior art. For example, Claim 2

recites “communicating data from a customer premises to the data network in the common format over the single network infrastructure using the common communication protocol.” Claim 27 recites similar, though not identical, features and operations. As another example, Claim 3 recites “communicating telephone communications from a customer premises to the telephone network in the common format over the common network infrastructure using the common communication protocol.” As discussed above with regard to Claim 1, the access module of *Focsaneanu* merely operates as an interface for the mediation of service on a service by service basis and is limited to a system for extracting a sample of data traffic to determine the type of traffic being transmitted and routing the traffic appropriately. For reasons similar to those discussed above, Applicants respectfully submit that the dependent claims are also allowable.

Section 103 Rejections

The Examiner rejected Claims 5, 8, 12-16, 18-20, 23-24, 26, 30, 32, 34, and 38-48, and 50 under 35 U.S.C. § 103(a) as being unpatentable over various combinations of *Focsaneanu*, U.S. Patent No. 5,805,154 issued to Brown (“*Brown*”), U.S. Patent No. 5,761,294 issued to Shaffer et al. (“*Shaffer*”), U.S. Patent No. 5,748,736 issued to Mittra (“*Mittra*”), U.S. Patent No. 6,510,152 B1 issued to Gerszberg et al. (“*Gerszberg*”), U.S. Patent No. 6,215,483 B1 issued to Zigmond (“*Zigmond*”), and U.S. Patent No. 6,550,900 issued to Ensor et al. (“*Ensor*”).

Dependent Claims 5, 8, 12-16, 18-20, 23, 24, and 26 depend upon independent Claim 1. Dependent Claims 30, 32, 34, 38-48, and 50 depend upon independent Claim 27. Since Claims 5, 8, 12-16, 18-20, 23, 24, and 26 and 30, 32, 34, 38-48, and 50 incorporate the limitations of independent Claims 1 and 27, respectively, which Applicants have shown above to be allowable, Applicants have not provided detailed arguments with respect to Claims 5, 8, 12-16, 18-20, 23, 24, 26, 30, 32, 34, 38-48, and 50. However, Applicants remain ready to do so if it becomes appropriate. Applicants respectfully request reconsideration and allowance of Claims 5, 8, 12-16, 18-20, 23, 24, 26, 30, 32, 34, 38-48, and 50.

CONCLUSION


For at least the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner believes that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to call Brian W. Oaks, Attorney for Applicants, at the Examiner's convenience at (214) 953-6986.

Applicants believe no fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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